

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RUSSELL R. LOVELESS and  
MARY ELLEN HENNINGS,

Plaintiffs,

v.

BANK OF AMERICA, N.A., *et al.*,

Defendants.

CIVIL ACTION NO. 3:13-CV-01546  
(JUDGE CAPUTO)  
(MAGISTRATE JUDGE SCHWAB)

ORDER

NOW, this 9<sup>th</sup> day of September, 2014, upon review of the Report and Recommendation of Magistrate Judge Schwab (Doc. 32) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 32) is **ADOPTED**.
- (2) Defendant's motion (Doc. 19) to dismiss Plaintiff's amended complaint (Doc. 15) is **GRANTED in part and DENIED in part**.
- (3) Plaintiff's claims against defendants MERS Corp., MERS Inc., and Fannie Mae, and Plaintiff's breach of contract claim based on the assignment of the mortgage, FDCPA claim with respect to the Act 91/Act 6 notice and § 1692f(6)(A), FDCPA claim with respect to the August/October 2013 letter and § 1692e, and claims for intentional infliction of emotional distress, negligent infliction of emotional distress, and gross negligence are **DISMISSED**.
- (4) Plaintiffs are granted **twenty-one (21) days** to file a second amended complaint. Should Plaintiffs fail to file an amended complaint within this time, the defendants and claims identified in (3) above will be dismissed **with prejudice**.
- (5) Plaintiff Hennings is dismissed unless she signs the first amended complaint (Doc. 15) within **twenty-one (21) days** or she signs any second amended complaint.
- (6) In all other respects, Defendant's Motion to Dismiss (Doc. 19) is **DENIED**.
- (7) The matter is **RECOMMITTED** to Magistrate Judge Schwab for further proceedings.

  
A. Richard Caputo  
United States District Judge